

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MARK ALFORD,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

Case No. 1:22-cv-01056-ADA-CDB

ORDER TO SHOW CAUSE WHY
SANCTIONS SHOULD NOT BE IMPOSED
FOR THE PLAINTIFF'S FAILURE TO
PROSECUTE THIS ACTION AND TO
COMPLY WITH THE COURT'S ORDERS;
ORDER CONTINUING THE MANDATORY
SCHEDULING CONFERENCE

(ECF No. 4)

Plaintiff initiated this action on August 19, 2022. (ECF No. 1). That same date, the Clerk of Court issued a summons. (ECF No. 2). The order setting the mandatory scheduling conference reads:

The Court is unable to conduct a scheduling conference until defendants have been served with the summons and complaint. Accordingly, plaintiff(s) shall diligently pursue service of summons and complaint and dismiss those defendants against whom plaintiff(s) will not pursue claims. Plaintiff(s) shall promptly file proofs of service of the summons and complaint so the Court has a record of service. Counsel are referred to F.R.Civ.P., Rule 4 regarding the requirement of timely service of the complaint. Failure to timely serve the summons and complaint may result in the imposition of sanctions, including the dismissal of unserved defendants.

(ECF No. 4 at 1). Here, Plaintiff has had more than two months to serve and file proofs of service of the summons and complaint and has failed to do so, and Defendant has not appeared in the action.

Therefore, the Court ORDERS:

1. **No later than November 21, 2022**, the plaintiff **SHALL** show cause why sanctions should not be imposed for the failure to prosecute this action and to serve the summons and complaint in a timely fashion as ordered. Alternatively, the plaintiff may file a proof of service demonstrating the summons and complaint has been served;

2. The scheduling conference is **CONTINUED** to **January 10, 2023** at 9:00 a.m.;

3. The parties are reminded in accordance with 28 U.S.C. Sec 636(c), F.R. Civ. P. 73 and Local Rule 305, the United States Magistrate Judge is available to exercise this court's case-dispositive jurisdiction and to conduct any or all case-dispositive proceedings in this action. Exercise of this jurisdiction by a Magistrate Judge is permitted only if all parties voluntarily consent. You may, without adverse substantive consequences withhold your consent, but this will prevent the court's case-dispositive jurisdiction from being exercised by a magistrate judge. The parties shall have 30 days from the date proof of service demonstrating service of the summons and complaint has been filed; and

4. Failure to respond may result in the Court recommending dismissal of this action.

IT IS SO ORDERED.

Dated: **October 28, 2022**


UNITED STATES MAGISTRATE JUDGE